
By: **Delegates Goldwater, Barkley, Barve, Benson, Bobo, Boteler, Boutin, Bromwell, Bronrott, Busch, Conway, Costa, Donoghue, Dumais, Eckardt, Elliott, Gordon, Harrison, Hixson, Hubbard, Jones, Kach, Kaiser, Lee, Mandel, Marriott, McIntosh, Menes, Morhaim, Murray, Nathan-Pulliam, Oaks, Pendergrass, Rosenberg, Rudolph, Smigiel, V. Turner, Vallario, and ~~Weldon~~ Weldon, Hammen, Hurson, and McDonough**

Introduced and read first time: January 29, 2004
Assigned to: Health and Government Operations

Committee Report: Favorable with amendments
House action: Adopted
Read second time: March 16, 2004

CHAPTER _____

1 AN ACT concerning

2 **Task Force to Study Pharmacy Benefits Management Act**

3 ~~FOR the purpose of prohibiting a person from practicing pharmacy benefits~~
4 ~~management in the State unless the person registers with the Secretary of~~
5 ~~Health and Mental Hygiene; requiring an applicant to file a certain application;~~
6 ~~submit certain documents, and pay a certain fee; providing for the term of the~~
7 ~~registration; providing for the renewal of a registration; authorizing the~~
8 ~~Secretary to suspend or revoke a registration or deny an application under~~
9 ~~certain circumstances; providing for a certain notice and hearing before a~~
10 ~~refusal to renew a registration; providing for an appeal to the Health Claims~~
11 ~~Arbitration Office; establishing that a pharmacy benefits manager is a fiduciary~~
12 ~~and is required to conform to certain standards of conduct; prohibiting a~~
13 ~~pharmacy benefits manager from acting as a private review agent under certain~~
14 ~~circumstances; requiring a pharmacy benefits manager to perform duties for a~~
15 ~~certain purpose and to disclose certain information regarding any conflicts of~~
16 ~~interest; requiring a pharmacy benefits manager to provide certain financial~~
17 ~~and utilization information requested by a covered entity; permitting a~~
18 ~~pharmacy benefits manager to designate certain information as confidential;~~
19 ~~providing for the release of certain confidential information by a covered entity~~
20 ~~from a pharmacy benefits manager under certain circumstances; requiring a~~
21 ~~pharmacy benefits manager to dispense certain prescription drugs in a certain~~
22 ~~manner; requiring a pharmacy benefits manager to transfer certain benefits or~~

1 payments received to the covered entity under certain circumstances; providing
2 for a civil penalty; and generally relating to the registration and regulation of
3 pharmacy benefits managers.

4 FOR the purpose of establishing a Task Force to Study Pharmacy Benefits
5 Management; providing for the membership, staffing, and reimbursement of
6 expenses of the Task Force; requiring the Task Force to study regulation of
7 pharmacy benefits managers; specifying items to be included in the study;
8 requiring the Task Force to recommend draft legislation; requiring the Task
9 Force to report its findings and draft legislation, in accordance with certain
10 provisions of the State Government Article, to the Senate Finance Committee
11 and House Health and Government Operations Committee on or before a
12 certain date; and generally relating to a Task Force to Study Pharmacy Benefits
13 Management.

14 ~~BY adding to~~
15 ~~Article Health General~~
16 ~~Section 20-1001 through 20-1009, inclusive, to be under the new subtitle~~
17 ~~"Subtitle 10. Pharmacy Benefits Management Act"~~
18 ~~Annotated Code of Maryland~~
19 ~~(2000 Replacement Volume and 2003 Supplement)~~

20 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
21 MARYLAND, That the Laws of Maryland read as follows:

22 **~~Article - Health - General~~**

23 **SUBTITLE 10. PHARMACY BENEFITS MANAGEMENT ACT.**

24 ~~20-1001.~~

25 ~~(A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS~~
26 ~~INDICATED.~~

27 ~~(B) (1) "COVERED ENTITY" MEANS A PERSON THAT OFFERS HEALTH~~
28 ~~INSURANCE THAT INCLUDES PRESCRIPTION DRUG AND DEVICE SERVICES TO THE~~
29 ~~PLAN'S ENROLLEES.~~

30 ~~(2) "COVERED ENTITY" INCLUDES SELF-INSURED EMPLOYERS,~~
31 ~~INSURERS, UNIONS, AND HEALTH MAINTENANCE ORGANIZATIONS.~~

32 ~~(C) "ENROLLEE" MEANS A MEMBER, PARTICIPANT, CONTRACT HOLDER,~~
33 ~~POLICYHOLDER, OR BENEFICIARY OF A COVERED ENTITY.~~

34 ~~(D) "GENERIC DRUG" MEANS A CHEMICALLY EQUIVALENT COPY OF A~~
35 ~~BRAND-NAME DRUG WITH AN EXPIRED PATENT.~~

36 ~~(E) "LABELER" MEANS A PERSON THAT RECEIVES PRESCRIPTION DRUGS~~
37 ~~FROM A MANUFACTURER OR WHOLESALER AND REPACKAGES THE DRUGS FOR~~

1 ~~LATER RETAIL SALE AND HAS A LABELER CODE FROM THE FEDERAL FOOD AND~~
2 ~~DRUG ADMINISTRATION UNDER 21 C.F.R. 270.20 (1999).~~

3 ~~(F) "PHARMACY" HAS THE MEANING STATED IN § 12-101 OF THE HEALTH~~
4 ~~OCCUPATIONS ARTICLE.~~

5 ~~(G) "PHARMACY BENEFITS MANAGEMENT" MEANS:~~

6 ~~(1) THE PROCUREMENT OF PRESCRIPTION DRUGS AT A NEGOTIATED~~
7 ~~RATE FOR DISPENSING WITHIN THIS STATE TO ENROLLEES;~~

8 ~~(2) THE ADMINISTRATION OR MANAGEMENT OF PRESCRIPTION DRUG~~
9 ~~BENEFITS PROVIDED BY A COVERED ENTITY FOR THE BENEFIT OF ENROLLEES; OR~~

10 ~~(3) THE ADMINISTRATION OF ANY OF THE FOLLOWING SERVICES~~
11 ~~RELATED TO PHARMACY BENEFITS:~~

12 ~~(I) MAIL SERVICE PHARMACY;~~

13 ~~(II) CLAIMS PROCESSING, RETAIL NETWORK MANAGEMENT, AND~~
14 ~~PAYMENT OF CLAIMS TO PHARMACIES FOR PRESCRIPTION DRUGS DISPENSED TO~~
15 ~~COVERED INDIVIDUALS;~~

16 ~~(III) CLINICAL FORMULARY DEVELOPMENT AND MANAGEMENT~~
17 ~~SERVICES;~~

18 ~~(IV) REBATE CONTRACTING AND ADMINISTRATION;~~

19 ~~(V) CERTAIN PATIENT COMPLIANCE, THERAPEUTIC~~
20 ~~INTERVENTION, AND GENERIC DRUG SUBSTITUTION PROGRAMS; AND~~

21 ~~(VI) DISEASE MANAGEMENT PROGRAMS.~~

22 ~~(H) "PHARMACY BENEFITS MANAGER" OR "PBM" MEANS A PERSON THAT~~
23 ~~PERFORMS PHARMACY BENEFITS MANAGEMENT IN A CONTRACTUAL OR~~
24 ~~EMPLOYMENT RELATIONSHIP FOR A COVERED ENTITY.~~

25 ~~(I) "PRIVATE REVIEW AGENT" MEANS A PRIVATE REVIEW AGENT REGULATED~~
26 ~~UNDER SUBTITLE 10B OF THE INSURANCE ARTICLE.~~

27 ~~20-1002.~~

28 ~~(A) A PERSON MAY NOT ENGAGE IN PHARMACY BENEFITS MANAGEMENT IN~~
29 ~~THE STATE UNLESS THE PERSON REGISTERS WITH THE SECRETARY.~~

30 ~~(B) AN APPLICANT FOR REGISTRATION SHALL:~~

31 ~~(1) SUBMIT TO THE SECRETARY AN APPLICATION ON THE FORM THAT~~
32 ~~THE SECRETARY PROVIDES;~~

33 ~~(2) SUBMIT THE DOCUMENTS THAT THE SECRETARY REQUIRES; AND~~

1 (3) ~~PAY TO THE SECRETARY AN APPLICATION FEE SET BY THE~~
2 ~~SECRETARY.~~

3 (C) ~~THE SECRETARY SHALL REGISTER EACH APPLICANT THAT MEETS THE~~
4 ~~REQUIREMENTS OF THIS SECTION.~~

5 (D) ~~THE SECRETARY SHALL INCLUDE ON EACH REGISTRATION THAT THE~~
6 ~~SECRETARY ISSUES:~~

7 (1) ~~THE FULL NAME OF THE REGISTRANT;~~

8 (2) ~~THE LEGAL NAME OF THE BUSINESS;~~

9 (3) ~~THE CURRENT ADDRESS OF THE REGISTRANT;~~

10 (4) ~~THE DATE OF ISSUANCE OF THE REGISTRATION; AND~~

11 (5) ~~THE DATE THE REGISTRATION EXPIRES.~~

12 (E) ~~EACH REGISTRANT SHALL GIVE THE SECRETARY WRITTEN NOTICE OF~~
13 ~~ANY CHANGE OF ADDRESS WITHIN 10 BUSINESS DAYS AFTER THE CHANGE.~~

14 (F) (1) ~~UNLESS A REGISTRATION IS RENEWED FOR A 4 YEAR TERM AS~~
15 ~~PROVIDED IN THIS SECTION, THE REGISTRATION EXPIRES ON JUNE 1 OF THE FIRST~~
16 ~~ODD-NUMBERED YEAR AFTER THE EFFECTIVE DATE OF THE REGISTRATION.~~

17 (2) ~~AT LEAST 1 MONTH BEFORE A REGISTRATION EXPIRES, THE~~
18 ~~SECRETARY SHALL MAIL TO THE REGISTRANT:~~

19 (I) ~~A RENEWAL APPLICATION FORM; AND~~

20 (II) ~~A NOTICE THAT STATES:~~

21 1. ~~THE DATE ON WHICH THE CURRENT REGISTRATION~~
22 ~~EXPIRES;~~

23 2. ~~THE DATE BY WHICH THE SECRETARY MUST RECEIVE~~
24 ~~THE RENEWAL APPLICATION FOR THE RENEWAL TO BE ISSUED AND MAILED BEFORE~~
25 ~~THE REGISTRATION EXPIRES; AND~~

26 3. ~~THE AMOUNT OF THE RENEWAL FEE.~~

27 (3) ~~BEFORE THE REGISTRATION EXPIRES, THE REGISTRANT MAY~~
28 ~~PERIODICALLY RENEW FOR AN ADDITIONAL 4 YEAR TERM, IF THE REGISTRANT:~~

29 (I) ~~OTHERWISE IS ENTITLED TO BE REGISTERED; AND~~

30 (II) ~~PAYS TO THE SECRETARY A RENEWAL FEE AS SET BY THE~~
31 ~~SECRETARY.~~

1 20-1003.

2 (A) ~~SUBJECT TO THE HEARING PROVISIONS OF SUBSECTION (C) OF THIS~~
3 ~~SECTION, THE SECRETARY MAY DENY REGISTRATION TO ANY APPLICANT,~~
4 ~~REPRIMAND ANY REGISTRANT, FINE ANY REGISTRANT, OR SUSPEND OR REVOKE A~~
5 ~~REGISTRATION IF THE APPLICANT OR REGISTRANT:~~

6 (1) ~~FRAUDULENTLY OR DECEPTIVELY OBTAINS OR ATTEMPTS TO~~
7 ~~OBTAIN A REGISTRATION FOR THE APPLICANT OR REGISTRANT OR FOR ANOTHER;~~

8 (2) ~~FRAUDULENTLY OR DECEPTIVELY USES A REGISTRATION;~~

9 (3) ~~HAS A SIMILAR LICENSE OR REGISTRATION DENIED, SUSPENDED, OR~~
10 ~~REVOKED IN ANOTHER JURISDICTION;~~

11 (4) ~~PLEADS GUILTY OR NOLO CONTENDERE TO OR IS CONVICTED OF A~~
12 ~~FELONY, THEFT OFFENSE, OR CRIME OF MORAL TURPITUDE;~~

13 (5) ~~AIDS AN INDIVIDUAL IN FRAUDULENTLY OR DECEPTIVELY~~
14 ~~OBTAINING OR ATTEMPTING TO OBTAIN A REGISTRATION UNDER THIS TITLE;~~

15 (6) ~~WHILE NOT REGISTERED AS A PBM AND EMPLOYED BY OR UNDER~~
16 ~~CONTRACT WITH A COVERED ENTITY, SOLICITS TO ENGAGE IN OR WILLFULLY~~
17 ~~ENGAGES IN PHARMACY BENEFITS MANAGEMENT;~~

18 (7) ~~WHILE NOT REGISTERED AS A PBM AND EMPLOYED BY OR UNDER~~
19 ~~CONTRACT WITH A COVERED ENTITY, WILLFULLY ADVERTISES AS A PBM;~~

20 (8) ~~WILLFULLY MAKES A FALSE STATEMENT OR MISREPRESENTATION~~
21 ~~IN ANY RENEWAL APPLICATION OR IN ANY OTHER DOCUMENT THAT THE~~
22 ~~SECRETARY REQUIRES TO BE SUBMITTED; OR~~

23 (9) ~~VIOLATES ANY OTHER PROVISION OF THIS SUBTITLE.~~

24 (B) ~~BEFORE THE SECRETARY DENIES THE REGISTRATION OF AN APPLICANT~~
25 ~~UNDER SUBSECTION (A) OF THIS SECTION, THE SECRETARY SHALL CONSIDER THE~~
26 ~~FOLLOWING FACTORS:~~

27 (1) ~~THE LENGTH OF TIME THAT HAS PASSED SINCE THE APPLICANT~~
28 ~~PLEADED GUILTY OR NOLO CONTENDERE OR WAS CONVICTED OF THE FELONY,~~
29 ~~THEFT OFFENSE, OR CRIME OF MORAL TURPITUDE;~~

30 (2) ~~WHETHER THE APPLICANT WAS A PBM PRIOR TO THE REQUIREMENT~~
31 ~~OF REGISTRATION UNDER THIS SUBTITLE; AND~~

32 (3) ~~ANY EVIDENCE THAT THE APPLICANT HAS BEEN A GOOD CITIZEN~~
33 ~~SINCE THE APPLICANT PLEADED GUILTY OR NOLO CONTENDERE OR WAS~~
34 ~~CONVICTED OF THE FELONY, THEFT OFFENSE, OR CRIME OF MORAL TURPITUDE.~~

35 (C) (1) ~~BEFORE THE SECRETARY TAKES ANY FINAL ACTION UNDER~~
36 ~~SUBSECTION (A) OF THIS SECTION, THE SECRETARY SHALL GIVE THE APPLICANT OR~~

1 REGISTRANT AGAINST WHOM THE ACTION IS CONTEMPLATED AN OPPORTUNITY FOR
2 A HEARING BEFORE THE SECRETARY.

3 (2) THE SECRETARY SHALL GIVE NOTICE AND HOLD THE HEARING IN
4 ACCORDANCE WITH TITLE 10, SUBTITLE 2 OF THE STATE GOVERNMENT ARTICLE.

5 (3) THE HEARING NOTICE TO BE GIVEN TO THE APPLICANT OR
6 REGISTRANT SHALL BE SENT BY CERTIFIED MAIL TO THE LAST KNOWN ADDRESS OF
7 THE APPLICANT OR REGISTRANT AT LEAST 10 BUSINESS DAYS BEFORE THE
8 HEARING.

9 (4) THE SECRETARY MAY ADMINISTER OATHS IN CONNECTION WITH
10 ANY PROCEEDING UNDER THIS SECTION.

11 (5) THE APPLICANT OR REGISTRANT MAY BE REPRESENTED AT THE
12 HEARING BY COUNSEL.

13 (6) IF, AFTER DUE NOTICE, THE APPLICANT OR REGISTRANT AGAINST
14 WHOM THE ACTION IS CONTEMPLATED FAILS OR REFUSES TO APPEAR, THE
15 SECRETARY MAY, NEVERTHELESS, HEAR AND DETERMINE THE MATTER.

16 (D) ANY APPLICANT OR REGISTRANT AGGRIEVED BY A FINAL DECISION OF
17 THE SECRETARY MAY TAKE AN APPEAL TO THE HEALTH CLAIMS ARBITRATION
18 OFFICE.

19 20-1004.

20 A PBM IS A FIDUCIARY AND SHALL ACT:

21 (1) IN GOOD FAITH;

22 (2) IN A MANNER THAT IS REASONABLY BELIEVED TO BE IN THE BEST
23 INTEREST OF THE COVERED ENTITY AND THE COVERED ENTITY'S ENROLLEES;

24 (3) WITH CARE, SKILL, PRUDENCE, AND DILIGENCE; AND

25 (4) IN ACCORDANCE WITH THE STANDARDS OF CONDUCT APPLICABLE
26 TO A FIDUCIARY IN AN ENTERPRISE OF LIKE CHARACTER AND WITH LIKE AIMS.

27 20-1005.

28 (A) A PBM SHALL:

29 (1) PERFORM ITS DUTIES FOR THE COVERED ENTITY FOR THE PURPOSE
30 OF PROVIDING BENEFITS TO ENROLLEES AND DEFRAYING REASONABLE EXPENSES
31 OF ADMINISTERING HEALTH SERVICES; AND

32 (2) DISCLOSE IN WRITING TO THE COVERED ENTITY ANY ACTIVITY,
33 POLICY, OR PRACTICE THAT DIRECTLY OR INDIRECTLY PRESENTS ANY CONFLICT OF
34 INTEREST WITH THE DUTIES IMPOSED BY THIS SUBTITLE.

1 ~~(B) A PBM MAY NOT ACT AS A PRIVATE REVIEW AGENT WHILE PERFORMING~~
2 ~~ITS DUTIES AS A PBM.~~

3 ~~20-1006.~~

4 ~~(A) A PBM SHALL PROVIDE TO THE COVERED ENTITY ALL FINANCIAL AND~~
5 ~~UTILIZATION INFORMATION REQUESTED BY THE COVERED ENTITY RELATING TO:~~

6 ~~(1) THE PROVISION OF BENEFITS TO ENROLLEES THROUGH THE~~
7 ~~COVERED ENTITY; AND~~

8 ~~(2) ALL FINANCIAL AND UTILIZATION INFORMATION RELATING TO~~
9 ~~SERVICES TO THE COVERED ENTITY.~~

10 ~~(B) (1) THE PBM MAY DESIGNATE ANY FINANCIAL AND UTILIZATION~~
11 ~~INFORMATION PROVIDED TO THE COVERED ENTITY BY THE PBM AS CONFIDENTIAL.~~

12 ~~(2) EXCEPT AS PROVIDED IN PARAGRAPH (3) OF THIS SUBSECTION,~~
13 ~~CONFIDENTIAL INFORMATION PROVIDED TO A COVERED ENTITY BY A PBM MAY NOT~~
14 ~~BE DISCLOSED BY THE COVERED ENTITY TO ANY PERSON WITHOUT THE WRITTEN~~
15 ~~CONSENT OF THE PBM.~~

16 ~~(3) A COVERED ENTITY MAY DISCLOSE INFORMATION DESCRIBED IN~~
17 ~~PARAGRAPH (1) OF THIS SUBSECTION:~~

18 ~~(I) TO THE EXTENT THAT DISCLOSURE MAY BE NECESSARY TO~~
19 ~~CARRY OUT THE PURPOSES OF THIS SUBTITLE;~~

20 ~~(II) WITH THE EXPRESS WRITTEN CONSENT OF THE PBM;~~

21 ~~(III) UNDER STATUTE OR COURT ORDER FOR THE PRODUCTION OR~~
22 ~~DISCOVERY OF EVIDENCE; OR~~

23 ~~(IV) IF THE INFORMATION IS PERTINENT TO A CLAIM OR IN~~
24 ~~LITIGATION.~~

25 ~~20-1007.~~

26 ~~(A) A PBM SHALL DISPENSE A SUBSTITUTE PRESCRIPTION DRUG FOR A~~
27 ~~PRESCRIBED DRUG ONLY TO AN ENROLLEE ACCORDING TO THE PROVISIONS OF THIS~~
28 ~~SECTION.~~

29 ~~(B) A PBM MAY SUBSTITUTE A LOWER PRICED GENERIC AND~~
30 ~~THERAPEUTICALLY EQUIVALENT DRUG FOR A HIGHER PRICED PRESCRIBED DRUG.~~

31 ~~(C) (1) A PBM MAY SUBSTITUTE A HIGHER PRICED PRESCRIBED DRUG FOR~~
32 ~~A LOWER PRICED GENERIC DRUG ONLY FOR MEDICAL REASONS THAT BENEFIT THE~~
33 ~~ENROLLEE AND THE COVERED ENTITY.~~

34 ~~(2) IF A SUBSTITUTION IS BEING MADE UNDER PARAGRAPH (1) OF THIS~~
35 ~~SUBSECTION, A PBM SHALL:~~

1 ~~(F) DISCLOSE TO THE ENROLLEE AND THE COVERED ENTITY THE~~
 2 ~~COST OF BOTH DRUGS AND ANY BENEFIT OR PAYMENT DIRECTLY OR INDIRECTLY~~
 3 ~~ACCRUING TO THE PBM AS A RESULT OF THE SUBSTITUTION; AND~~

4 ~~(H) OBTAIN THE WRITTEN APPROVAL OF THE ENROLLEE'S~~
 5 ~~PRESCRIBING HEALTH PROFESSIONAL OR THE ENROLLEE'S AUTHORIZED~~
 6 ~~REPRESENTATIVE.~~

7 ~~(D) THE PBM SHALL TRANSFER IN FULL TO THE COVERED ENTITY ANY~~
 8 ~~BENEFIT OR PAYMENT RECEIVED IN ANY FORM BY THE PBM AS A RESULT OF A~~
 9 ~~PRESCRIPTION DRUG SUBSTITUTION UNDER SUBSECTION (C) OF THIS SECTION.~~

10 ~~20-1008.~~

11 ~~(A) A PBM THAT DERIVES ANY PAYMENT OR BENEFIT FOR THE DISPENSING~~
 12 ~~OF PRESCRIPTION DRUGS WITHIN THE STATE BASED ON VOLUME OF SALES FOR~~
 13 ~~CERTAIN PRESCRIPTION DRUGS OR CLASSES OR BRANDS OF DRUGS WITHIN THE~~
 14 ~~STATE SHALL PASS THE PAYMENT OR BENEFIT ON IN FULL TO THE COVERED~~
 15 ~~ENTITY.~~

16 ~~(B) A PBM SHALL DISCLOSE TO THE COVERED ENTITY ALL FINANCIAL TERMS~~
 17 ~~AND ARRANGEMENTS FOR REMUNERATION OF ANY KIND THAT APPLY BETWEEN~~
 18 ~~THE PBM AND ANY PRESCRIPTION DRUG MANUFACTURER OR LABELER, INCLUDING:~~

19 ~~(1) FORMULARY MANAGEMENT AND DRUG SWITCH PROGRAMS;~~

20 ~~(2) EDUCATIONAL SUPPORT;~~

21 ~~(3) CLAIMS PROCESSING AND PHARMACY NETWORK FEES THAT ARE~~
 22 ~~CHARGED BY RETAIL PHARMACIES; AND~~

23 ~~(4) DATA SALES FEES.~~

24 ~~20-1009.~~

25 ~~THE SECRETARY MAY ASSESS A CIVIL PENALTY, NOT EXCEEDING \$10,000,~~
 26 ~~AGAINST ANY PERSON WHO VIOLATES THIS SUBTITLE.~~

27 ~~(a) There is a Task Force to Study Pharmacy Benefits Management.~~

28 ~~(b) The Task Force consists of the following members:~~

29 ~~(1) two members of the Senate of Maryland, one of whom shall serve as~~
 30 ~~co-chairman, appointed by the President of the Senate;~~

31 ~~(2) two members of the House of Delegates, one of whom shall serve as~~
 32 ~~co-chairman, appointed by the Speaker of the House;~~

33 ~~(3) the Secretary of Health and Mental Hygiene, or the Secretary's~~
 34 ~~designee;~~

1 (4) the Insurance Commissioner, or the Commissioner's designee;

2 (5) the Secretary of Budget and Management, or the Secretary's
3 designee; and

4 (6) the following members, appointed by the Secretary of Health and
5 Mental Hygiene:

6 (i) three representatives of pharmacy benefits managers;

7 (ii) two representatives of retail pharmacies;

8 (iii) a licensed pharmacist;

9 (iv) an authorized prescriber; and

10 (v) a representative of health insurance carriers.

11 (c) The Department of Health and Mental Hygiene shall provide staff for the
12 Task Force.

13 (d) A member of the Task Force:

14 (1) may not receive compensation; but

15 (2) is entitled to reimbursement for expenses under the Standard State
16 Travel Regulations.

17 (e) The Task Force shall study regulation of pharmacy benefits managers,
18 including:

19 (1) the entities included under the definition of pharmacy benefits
20 manager;

21 (2) a State registration or certification process;

22 (3) the fiduciary relationship between a pharmacy benefit manager and
23 a covered entity;

24 (4) any provisions of the Insurance Article, including provisions
25 regulating private review agents, that could potentially conflict with regulation of
26 pharmacy benefits managers;

27 (5) the financial and utilization information a pharmacy benefits
28 manager should be required to provide to a covered entity and the proprietary nature
29 of that information;

30 (6) the ability of a pharmacy benefits manager to substitute another
31 prescription drug for the drug prescribed;

1 (7) whether a pharmacy benefits manager should be required to transfer
2 to a covered entity any benefit or payment received by the pharmacy benefits
3 manager as a result of a prescription drug substitution;

4 (8) whether a pharmacy benefits manager should be required to disclose
5 to a covered entity the business relationships and financial terms and arrangements
6 for remuneration that apply between the pharmacy benefits manager and a
7 prescription drug manufacturer, mail order pharmacy, or labeler;

8 (9) whether a pharmacy benefits manager should be required to allow
9 into its pharmacy network any retail pharmacy that agrees to match the prices
10 offered by a mail order pharmacy; and

11 (10) the fiscal impact on the State of pharmacy benefits manager
12 regulation.

13 (f) The Task Force shall recommend draft legislation as a result of its study.

14 (g) The Task Force shall report its findings and recommended draft
15 legislation, in accordance with § 2-1246 of the State Government Article, to the
16 Senate Finance Committee and House Health and Government Operations
17 Committee on or before December 1, 2004.

18 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
19 ~~October 1~~ June 1, 2004.